

**HIGH COURT OF JUDICATURE MADHYA PRADESH,**  
**JABALPUR**

**SINGLE BENCH: HON'BLE SHRI SUBODH ABHYANKAR, J**

**WRIT PETITION NO.6764 OF 2017**

**Pankaj Singh @ Sonu Singh**

**Vs.**

**State of Madhya Pradesh and others**

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**Present:**

For petitioner : Shri Akhil Singh, Advocate.

For respondents: Shri Naveen Dubey, Government Advocate

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**Whether Approved for Reporting : Yes**

**Law Laid Down:** (i) While passing an order of externment, the proximity of offence alleged against the petitioner from the date of passing of the order is a relevant fact and has to be dealt with accordingly.

(ii) The observations made regarding the callous approach made by the District Magistrates in passing the order of externment without going through various judgments passed by this Court.

**Significant Paragraph Nos.7 and 9 .**

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**ORDER**

(Passed on this the 29<sup>th</sup> day of August, 2017)

The present petition is filed under Article 226 of the Constitution of India against the order dated 30.12.2016 and 24.4.2017 passed by the respondent No.3/ Collector, Sidhi and respondent No.2/Commissioner, Rewa Division, Rewa respectively under the provisions of Madhya Pradesh Rajya Suraksha Adhiniyam, 1990 (hereinafter referred to as the 'Adhiniyam of 1990') by invoking Sections 5 and 6 of the aforesaid Act. Vide impugned order dated 30.12.2016, the petitioner has been restrained from entering into the territorial limits of Sidhi and adjoining districts for a period of one year.

2. In brief the facts of the case are that a notice under Section 8 of the Adhinyam of 1990 was issued to the petitioner by the respondent No.3 on 27.6.2016 to show cause as to why an order of externment be not passed against him under Section 5(kha) and 13 of the Act of 1990 in respect of District Sidhi and the adjoining districts. The reason for issuance of notice was stated to be the criminal antecedents of the petitioner and his continuous indulgence in criminal activities leading to fear in the minds of public and which has also led to witnesses not coming forward to depose against the petitioner for fear of their personal safety. In the notice there were as many as 12 Criminal cases which were taken into consideration in which the petitioner was involved. The details of cases is as under :

S.No.	Crime No.	Offence	Result
1.	9/2003	Section 325 of IPC	<b>Acquittal</b> in Criminal Case No.107/2003 vide order dated 14.6.2005 passed by learned JMFC, Majhouli.
2.	24/2004	Sections 341, 294, 323, 506/34 of IPC	Criminal case is <b>pending</b> before the court of learned JMFC, Majhouli as the complainant is not appearing.
3.	130/2005 (Correct No.103/2005)	461 of IPC	<b>Acquittal</b> in Criminal Case vide order dated 20.9.2008 passed by learned JMFC, Majhouli
4.	165/2005	Sections 451, 294, 323 and 506 of IPC	<b>Acquittal</b> in Criminal Case No.170/2005 vide order dated 25.11.2008 passed by learned JMFC, Majhouli
5.	169/2005	Sections 341, 294, 506, 323 and 34 of IPC	<b>Acquittal</b> in Criminal Case No.47/2005 vide order dated 22.6.2005 passed by learned JMFC, Majhouli
6.	334/2007	Sections 294, 323, 506, 336/34 of IPC	<b>Acquittal</b> in Criminal Case No.250/2007 vide order dated 30.5.2010 passed by learned JMFC, Majhouli
7.	228/2008	Sections 294, 323, 506/34 of IPC	Criminal case is <b>pending</b> before the court of learned JMFC, Majhouli

8.	304/2008	Sections 147, 148, 149, 294, 323, 427, 506 of IPC	<b>Acquittal</b> in Criminal Case No.859/2008 vide order dated 26.10.2015 passed by learned JMFC, Majhouli
9.	457/2008	Sections 452, 327/34 of IPC	<b>Acquittal</b> in Criminal Case No.176/2009 vide order dated 21.7.2011 passed by learned JMFC, Majhouli
10.	Complaint Case No.09/2011 in which vide order dated 16.4.2011 proceedings u/s 107, 116(3) of Cr.P.C have been initiated.		Pending
11.	Complaint Case No.337/2011 in which vide order dated 20.12.2011 proceedings u/s 107, 116(3) of Cr.P.C have been initiated		Pending
12.	Complaint Case No.7/2015 in which vide order dated 29.11.2015 proceedings u/s 110 of Cr.P.C have been initiated		Pending

3. The petitioner also submitted a reply to the aforesaid notice stating therein that in most of the cases he has already been acquitted and the offences which have been taken into consideration in the show cause notice are for the period starting from 2002 to 2008 and after 2008 only proceedings under Section 107, 110, 116(3) of Cr.P.C. have been initiated and as such no serious offence is registered against him. It is further submitted that since 2008 no report of any incident has been registered against him and he is living a peaceful life now and

has got into the main stream of life, he also intends to live peacefully in future. It is further submitted that these proceedings have been initiated at the instance of persons who bore grudge against the petitioner and have an axe to grind against him. Hence, it was prayed that the proceedings be dropped.

4. Learned District Magistrate, Sidhi after taking into account the reply submitted by the petitioner has passed the order dated 30.12.2016 as stated herein-above and on an appeal being preferred against the aforesaid order before the Commissioner, Rewa, the same was also dismissed via order dated 24.4.2017 and being aggrieved by the same, the present petition has been filed before this Court.

5. Heard learned counsel for the parties.

6. A bare perusal of the record reveals that there are as many as 12 cases registered against the petitioner which were registered from the year 2003 to 2008 wherein FIRs have been registered. In other cases three cases, only the proceedings were initiated. Out of the aforesaid nine cases, the petitioner has been acquitted in seven cases and only two cases are pending which are of the year 2004 and 2008 respectively under sections 341, 294, 323, 506/34 of IPC. Thus, the cases which are pending are also minor in nature. In other proceedings under under Sections 107, 110 & 116 (3) etc of Cr.P.C. are *Ishtagasa* proceedings and thus it can be safely concluded that the last registered offence against the petitioner was in the year 2008 only whereas the impugned order has been passed taking into account 12

cases registered against the petitioner which were registered from the year 2003 to 2008. In other three cases, only the proceedings under Cr.P.C. were initiated.

7. Admittedly the impugned order has been passed on 30.12.2016 i.e. almost after a lapse of eight years from the last criminal case registered against the petitioner. The whole purpose of passing an order of externment is to prevent a person from indulging in criminal activities, hence the passing of the order of externment in a case like the present one where the last offence registered against the petitioner was in the year 2008 and other three cases in the year 2011 & 2015 were actually the proceedings under the Criminal Procedure Code. In such circumstances, there was no justification in passing the order of externment and depriving the petitioner from entering into the districts of his choice. This Court in the case of **Rajesh @ Rakesh Sonkar Vs. The State of M.P. and others** (in W.P. No.21326/2016 decided on 8.3.2017) has observed that in order to pass an effective order, there has to be a proximity of the offences committed by the petitioner with the order of externment and it was also observed that the purpose of initiation of proceedings under Madhya Pradesh Rajya Suraksha Adhiniyam is to prevent a person from committing any offence or any act prejudicial to the public interest.

8. In the circumstances, the impugned order dated 30.12.2016 passed by the respondent No.3/Collector, Sidhi and also the order dated 24.4.2017 passed by the respondent No.2/Commissioner, Rewa Division, Rewa cannot be sustained in the eyes of law and the same are hereby **quashed**.

9. Before parting with the case, it would be necessary to comment on the callous approach adopted by the District Magistrate and police officials in securing an order of externment under the provisions of M.P. Rajya Suraksha Adhiniyam, 1990 which finally gets quashed by the High Court. In most of the cases which travel up to this Court, it is observed that many important mandatory provisions of the Adhiniyam are given a complete go-bye which situation can certainly be avoided by the concerned authorities by simply carefully going through the catena of judgments delivered by this Court in the cases relating to externment and then pass the final order.

10. The writ petition stands allowed accordingly.

**(Subodh Abhyankar)**  
**Judge**  
29/08/2017

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